

MINUTES OF THE REGULAR MEETING
OF THE HOUSING AND COMMUNITY DEVELOPMENT
CORPORATION OF HAWAII
HELD AT THEIR OFFICE AT 677 QUEEN STREET
ON THURSDAY, JUNE 16, 2005,
IN THE CITY AND COUNTY OF HONOLULU, STATE OF HAWAII

The Board of Directors of the Housing and Community Development Corporation of Hawaii met for a regular meeting at 677 Queen Street, on Thursday, June 16, 2005 at 9:00 a.m.

The meeting was called to order by Chairman Charles Sted and, on roll call, those present and absent were as follows:

CALL TO
ORDER/
ROLL CALL

PRESENT: Director Charles King
Director Betty Lou Larson
Designee Henry Oliva
Director Linda Smith
Director Charles Sted

Acting Executive Director Pamela Y. Dodson

EXCUSED: Director Francis L. Jung
Designee Rick Manayan
Director Travis O. Thompson

Staff Present: Bryan Yee, Deputy Attorney General
Sandra Ching, Deputy Attorney General
Janice Takahashi, Planner
Mavis Masaki, Planner
Georgina Lopez, Housing Information Specialist
Darren Ueki, Finance Manager
Marlene Lemke, Real Estate Services Section Chief
Marcia Kamiya, Sales Coordinator
Tom Otake, Acting Development Section Chief
Chris Sadayasu, Project Coordinator
Stan Fujimoto, Project Coordinator
Leonell Domingo, Project Coordinator
Edmund Morimoto, Construction Management Section Chief
Gary Umeda, Housing Inspector
Marilyn Labayog, Property Mgmt. & Maint. Branch Chief
Stan Young, Acting Hearings Officer
Shirley Higa, Secretary to the Board

OTHERS: Michael Flores, HUD
Bill Sabulboro, HUD
Micah Kane, Department of Hawaiian Home Lands
Sen. Donna Mercado Kim
Sen. Clayton Hee
Ross Tsukenjo
Harry Saunders, Castle & Cooke
Alan Arakawa, Castle & Cooke
Carleton Ching, Castle & Cooke
Natalie Kiehm, Castle & Cooke
Garret Furukoshi, Castle & Cooke
Michele Otake, Castle & Cooke
Jamie Gentry, Villages of Kapolei
Warren Wegesend, Villages of Kapolei
Greg Hiyakimoto, R.M. Towill

OTHERS: Marvin Awaya, Pacific Housing Assistance Corp.
(Cont'd) David Chinen, President, Waiahole Waikane Community Assn.
(WWCA)
Pat Pilanca, WWCA
Lowry Parr, WWCA
Drew Parr, WWCA
Violet Roberts, WWCA
Laa Kea Chock, WWCA
Brad Chong, Attorney for WWCA
Todd Eddins, Attorney for WWCA
Chula Clark, WWCA
Kon Paayau Sr., WWCA
Doug Taira, WWCA
Rose Batalona, WWCA
Guy Nakamoto, WWCA
Harriet Nakamoto, WWCA
Cookie Lagala, WWCA
Michael Garcia, LLPA
Philip Gernler, WWCA
Norman Uyemura, WWCA
Norman Sadoyama, WWCA
Wayne Matayoshi, WWCA
Frank Shiroma, WWCA
Shirley Shiroma, WWCA
Richard Garcia, Resident, Waiahole Valley
Kathryn Lelehulanikane, Resident, Waiahole Valley
Alma Ringler
George Turner, Kokua Legal Services

Chairman Sted declared a quorum was present. He also informed those in attendance that some items on the agenda would be taken out of order noting that Informational Item A, regarding Senate Concurrent Resolution No. 178, would be taken later on the agenda when Micah Kane, Chairperson, Department of Hawaiian Home Lands would be able to address the Board.

QUORUM

Director Smith moved, seconded by Designee Oliva

APPROVAL
OF
MINUTES -
05/19/2005

That the minutes of May 19, 2005 be approved.

The motion was unanimously carried.

Staff's recommendation was presented as follows:

RESOLU-
TION
NO. 096
EXPRESS-
ING
APPRE-
CIATION
TO
BETTY LOU
LARSON

For her service and contributions to the Housing and Community Development Corporation of Hawaii, it is recommended that the HCDCH Board of Directors adopt Resolution No. 096, which expresses appreciation to Ms. Betty Lou Larson

Director King moved, seconded by Designee Oliva

That staff's recommendation be approved.

Acting Executive Director Pamela Dodson stated that the meeting is the last meeting for Director Larson due to the sunseting of the Rental Housing Trust Fund Advisory Commission. Ms. Dodson expressed gratitude to Director Larson for her contributions to the agency.

Chair Sted also acknowledged Director Larson's valuable input of the housing situation for the elderly and how he has benefitted from her knowledge.

The motion was unanimously carried.

Director Larson expressed her appreciation to the entire Board for continuously striving to provide affordable housing for the people of Hawaii.

Staff's recommendation was presented as follows:

In appreciation of the contributions made to further the State's housing efforts, it is recommended that the HCDCH Board of Directors adopt Resolution No. 097 which expresses appreciation to the Rental Housing Trust Fund Advisory Commission.

Director King moved, seconded by Director Smith

That staff's recommendation be approved.

Finance Branch Manager Darren Ueki thanked the members of the Rental Housing Trust Fund Advisory Commission for their support and guidance provided to staff throughout the past years.

There being no further discussion, the motion was unanimously carried.

RESOLUTION
NO. 097
EXPRESSING
APPRECIATION
TO
RENTAL
HOUSING
TRUST
FUND
ADVISORY
COMMISSION

Staff's recommendation was presented as follows:

That the HCDCH Board of Directors disapprove the request to implement a housing demonstration project at Hauiki Homes, Hawaii

Director King moved, seconded by Designee Oliva

That staff's recommendation be approved.

Chief Planner Janice Takahashi stated that Hauiki Homes is a 46-unit State rental project. HCDCH has expended approximately \$2.1 million for capital improvement and maintenance work. Additional monies are planned to be expended later to remove hazardous materials.

Ms. Takahashi reviewed a chronology of events regarding the proposed purchase of the individual units from the state:

- July 14, 2004 - Kokua Legal Services (KLS) addressed the Board in support of House Concurrent Resolution (HCR) 214 of the 2004 Legislative Session requesting HCDCH to study the feasibility of implementing a housing demonstration project at Hauiki Homes.
- Executive Director Stephanie Aveiro spoke with KLS to discuss what information is required of the residents in the written proposal which was subsequently submitted to HCDCH on October 12, 2004. An offer to purchase for \$791,100 with a lease rent of \$1.00 per year was submitted with sources of financing subject to approval. A petition signed by the Hauiki Homes residents indicated that 29 individual household members wanted to pursue home ownership but their qualifications had not yet been determined. Additionally there were a few households who stated that they wanted to maintain their status as tenants and not as owners.
- In response to HCR 214, HCDCH submitted a report noting that it was conducting an asset management study of all of its properties and that a decision on the sale of the Hauiki Homes would be deferred pending the results of the study.

Ms. Takahashi continued that Hauiki Homes generates a monthly positive cash flow thereby subsidizing other projects that may not be able to be as self-sufficient. Coupled with the fact that the number of available rental units would decrease should a sale occur, staff is recommending that the request be disapproved.

George Turner, Housing Director of Kokua Legal Services Inc. (KLS) then addressed the Board regarding its request for a Memorandum of Understanding (MOU) with HCDCH to pursue the purchase of Hauiki Homes. A purchase agreement was submitted in September 2004. The main question that went unanswered was the number of residents who would qualify for homeownership. During a meeting with staff, it was recommended that one of the homeownership options could be a form letter requesting assistance for all residents through project based subsidies from the U.S. Department of Housing and Urban Development (HUD). Staff had also offered to submit this request to HUD for Hauiki Homes. Mr. Turner continued that in the same meeting, staff had referred to Palolo Homes that could be duplicated for Hauiki Homes for homeownership.

RECOM-
MENDATION
TO DIS-
APPROVE
REQUEST
TO
IMPLE-
MENT
A
HOUSING
DEMON-
STRATION
PROJECT AT
HAUIKI
HOMES,
OAHU

Recognizing that the state had expended funds for capital improvements, the residents would take that amount under consideration together with future affordability. Mr. Turner also stated that HUD has an economic development program that would give employment to residents as well as empowering residents to become self-sufficient.

Mr. Turner concluded by requesting the Board to amend staff's recommendation by entering into a MOU and allow more time to resolve the issues with staff.

Director Larson commented project based vouchers is good; however HUD changed its rules regarding the Section 8 vouchers, thereby lowering the amount of vouchers available for Hawaii. She further stated her concern about the one-for-one replacement of rental units once units are sold.

Mr. Turner noted that Section 8 has two programs - - one for home ownership and the other for rental subsidies. Regarding the replacement of the units in the rental market, the residents are willing to purchase at market price; all residents would be given the opportunity to purchase and there would be no family who would be displaced.

Director Smith commented that she understands the goals of a first-time homeowner. However, as a Board member there are fiduciary responsibilities that must be adhered to which include:

- The financial and management capabilities of the firm that is proposing to oversee the conversion must be considered;
- Also the loss of the existing rental units must also be seriously considered due to the current shortage of rentals and lack of resources to replace them; and
- The amount that is tendered would not be able to reproduce the existing rental units.

Director Smith continued that should the Board approve staff's recommendation, it would not preclude the Board from approaching the residents or another firm to continue the quest for home ownership as a long-term goal.

Mr. Turner commented that if the management capabilities of KLS is questionable, then the possibilities of subcontracting to another private management company that would be acceptable, could also be considered. The residents should be given the opportunity to purchase their homes. Should the purchase price be considered too low, Mr. Turner asked for the opportunity to negotiate a more acceptable price.

Director Smith reiterated her position that in fairness to the residents, it should be determined whether the proposal should go forward or not.

There being no further discussion, the motion to approve staff's recommendation was unanimously carried.

Staff's recommendation was presented as follows:

That the HCDCH Board of Directors:

1. Approve the review and Selection Committee's recommendation and approve the selection of Castle & Cooke Hawaii Homes, Inc. as the preliminary developer for the Three Vacant Parcels as described in the Request for Proposals for the Villages of Kapolei dated February 7, 2005.

APPROVAL
OF THE
PROPOSAL
SUBMITTED
BY
CASTLE &
COOKE
HAWAII
HOMES,
INC.

- 2. Authorize the Executive Director or representative to formally notify the developer of its selection as preliminary developer and commence negotiations for the preparation of any development and loan agreements to effectuate the development of the parcels.

Subject to:

- 1. Compliance with all rules and regulations of Chapter 201G and HCDCH.
- 2. Completion of negotiations and finalization of any development and loan agreements within one hundred eighty (180) days from the approval of this "For Action" item and agreement by the developer that there will be no monetary recourse should the agreement not be consummated and/or the deadline not be met.
- 3. Approval of any negotiated agreements by the HCDCH Board of Directors.
- 4. Such other terms and conditions as may be required by the Executive Director.

AS THE
PRELIM-
INARY
DEVELOPER
FOR THE
DEVELOP-
MENT
OF THE
THREE
VACANT
PARCELS
AS
DESCRIBED
IN THE
REQUEST
FOR
PROPOSALS
FOR THE
VILLAGES
OF
KAPOLEI
DATED
2/7/2005

Director Larson moved, seconded by Designee Oliva

That staff's recommendation be approved.

Acting Development Branch Section Chief Tom Otake explained that a Request for Proposals (RFP) for the development of three vacant parcels in the Villages of Kapolei was issued with a deadline of April 29, 2005. Staff received four proposals from:

Castle and Cooke Hawaii Homes, Inc.;
DR Horton - Schuler Homes, LLC;
Enhanced Affordable Development Company, LLC; and
UniDev, LLC

The Review and Selection Committee (Committee) was comprised of two non-HCDCH employees and three HCDCH staff members. An evaluation criteria was based on a score of 100 points maximum. Each Committee member did his/her own evaluation. The scores were then added together, and an average score was obtained for each company; with Castle & Cooke Hawaii Homes, Inc. (CCHHI) receiving the highest score.

Mr. Otake expressed staff's appreciation to the non-HCDCH employees, Gary Kai and Charles Wathen who contributed their time to the process as well as to the companies who submitted proposals that were all well done.

Harry Saunders, President of Castle & Cooke Hawaii (CCHHI) then addressed the Board. Mr. Saunders commented that the mission of HCDCH, "Bringing People Together to Make Housing Dreams Come True," is similar to their mission which is "Investing in Hawaii, Creating Communities, Delivering Dreams." Mr. Saunders then introduced Alan Arakawa, Vice President of Development for CCHHI.

Mr. Arakawa stated that the company was established in 1851 and began diversifying in real estate development in the late 1950's. Its first homes were developed in Mililani Town, Oahu, in 1968 and has since developed over 18,000 homes, which includes Kumu Iki in Villages of Kapolei.

The proposal attempts to complement the existing community and at the same time creating three unique communities which would provide almost 500 housing units with over 50% dedicated to affordable rentals and all units offered to families earning up to 140% of the average median income (AMI). A total of 280 rental units is planned with 210 units to be offered for sale. Mr. Arakawa then described the planned development of the three parcels as follows:

Parcel No. 1 - 90 rental units for families at or below 60% AMI; one- and two-bedroom units;

Parcel No. 2 - 50 rental units for families below 60% AMI; 140 rental units for tenants 60%-100% AMI; 90 units for buyers at or below 120% AMI; and

Parcel No. 3 - 120 townhomes for sale for buyers at or below 140% AMI; two & three bedroom units.

Construction of for sale and rental residences will be done concurrently; 2006 will be the actual start date with completion of all three parcels by 2010. Low-income housing tax credits will be used and Pacific Housing Assistance Corporation, Design Partners, Inc. and R.M. Towill will be part of the development team. Other than the tax credits, most of the \$108 million development cost will be from private funding.

Marvin Awaya of Pacific Housing Assistance Corporation then addressed the Board regarding the tax credits for parcels 1 and 2. He noted that in the For Action, Exhibit B, Page 1, the tax credits for the project should be 9% rather than 4% as stated. A current estimate of federal tax credits to be applied for is \$1 million per year. The proposed monthly rent is estimated to be \$600 - \$820 for those in parcel 1.

For parcel 2, it is estimated that \$700,000 in federal tax credits per year will be applied for. The estimated rental rates are estimated to be \$690 - \$945 per month due to the larger units to be developed.

In response to Director Smith's query, Mr. Awaya stated that State tax credits of 30%, or if the Legislature approves, 50% of the Federal amount, would further enhance the financing of the project. However Mr. Awaya cautioned that the numbers are only estimates as contract negotiations have yet to take place.

Designee Oliva commented that the proposed project is a good mix of homes; however to have parcel 1 exclusively for tenants at or below 60% AMI may not be well received and encouraged the developer to be cognizant of the distribution of the various types of homes to be developed in the three parcels.

Mr. Awaya stated that for tax credit projects that are privately owned/financed, the criteria for its operations differs from a public housing project. Replacement or repair/maintenance reserves are set up and funded by a portion of the monthly rent collected; unlike government operations. Fixed rate rents are also established to encourage tenants who are employed on a regular basis and whose income is 2-1/2 times the monthly income and yet not to exceed the 60% AMI.

In response to Director Larson's query, Finance Branch Manager Darren Ueki stated that the annual tax credits awarded is approximately \$2.3 million per year.

Director Smith then asked if after the 180-days timeframe, should staff not be able to reach agreement with CCHHI, would staff then go to the developer who received the next highest score. Mr. Otake stated that that was correct and also the difference between CCHHI and DR Horton - Schuler Homes, LLC, was approximately 3 points. The range and the mix of homes as well as the amount of state resources that would be used in the development were some of the determining factors in the rating.

Director Larson commented that the proposed developments would add to the community of Kapolei. She further commented that the larger number of rentals and the lesser amount of state resources was a good criteria to use.

Warren Wegesend, General Manager of Villages of Kapolei Association (VOKA), stated that he was representing the Board of Directors of VOKA. He also introduced Jaime Gentry, President of the Board of Directors. Mr. Wegesend expressed the Board's pleasure that the development process is moving forward. However, he expressed their disappointment that Mr. Gentry, who was originally a part of the selection committee, had to recuse himself for legal reasons. Despite this, the Board is committed to remain active in the future planning of the VOKA as there are large undeveloped parcels in the area. Mr. Wegesend further stated that another mechanism be used that would allow the Association to be able to participate in the planning process.

Mr. Wegesend added that the affordable homes built by CCHHI in the late 1980's and early 1990's have kept pace with the current real estate market so they are welcomed back into the community to provide more affordable quality homes as in the past.

Mr. Otake noted that the homes Mr. Wegesend referred to were originally sold for approximately \$89,000; the homes are now valued at \$600,000 or more.

Designee Oliva commented that the development agreement is for 30 years to remain as affordable rentals. Mr. Otake stated that the terms are still negotiable.

Director Larson also commented that although 30 years is fairly long, the need for rental housing will always be an issue for Hawaii in meeting the demands. Mr. Otake agreed and stated that the length of affordability was one of the items that staff would negotiate.

Director Smith commented that should the Board take the right actions now, then the State would not be faced with a situation where it would not allow more participation in the homeownership effort. This is exemplified by Mr. Otake's example of the first homes built in VOKA with their rise in value. She further advised staff that it be cautious in committing the state for a long period of time as the economy is always changing and encouraged a re-analysis before beginning its negotiations.

There being no further discussion, the motion was unanimously carried.

The Chair then recognized Sen. Donna Mercado Kim in attendance.

SEN.
DONNA
MERCADO
KIM

Director Larson moved, seconded by Director King

RECESS

That the meeting be recessed at 10:00 a.m.

The motion was unanimously carried; the Chair reconvened the meeting at 10:15 a.m.

Staff's recommendation was presented as follows:

Staff respectfully recommends that the HCDCH Board:

- A. Amend the For Action dated June 19, 2003 issuing an Inducement Resolution for the Senior Residence at Iwilei project by extending the deadline to issue Hula Mae Multi-Family Bonds for an additional 12 months through June 19, 2006.
- B. Authorize the Executive Director to undertake all tasks necessary to effectuate the intent and purposes of this For Action.

Director King moved, seconded by Director Smith

That staff's recommendation be approved.

Finance Branch Manager Darren Ueki explained that Pacific Housing Assistance Corp. (PHAC) is a general partner of the project. The following chronology of events was described as follows:

January 31, 2003 - HCDCH Board of Directors approved a reservation of up to \$1,550,000 in Federal Low Income Housing Tax Credits and \$465,000 in State Low Income Housing Tax Credits for the project;

June 19, 2003 - Inducement Resolution No. 082 was adopted by the HCDCH Board of Directors to facilitate further discussion and negotiation between staff, the developer, the underwriter and the bond counsel for a possible issuance of \$20 million in bonds;

June 17, 2004 - HCDCH Board of Directors approved an extension of Inducement Resolution to June 18, 2005; and on

January 7, 2005 - HCDCH staff received a Consolidated Application requesting consideration for increasing the Hula Mae Multi Family program tax-exempt volume cap allocated to the Project by \$1 million, additional Federal Low Income Housing Tax Credits and a Rental Housing Trust Fund Project Award of \$15,352,523.

Mr. Ueki further noted a change wherein the cost of the Adult Day Health Center estimated at \$3 million, was not included in the proposed budget, as it will be financed separately.

Director Smith asked about the ownership of the land to which Mr. Ueki responded that it belonged to the State. Marvin Awaya of PHAC added that the land belongs to the State and would be transferred via Executive Order for the right of entry to HCDCH. The set aside of the land to HCDCH is then followed by an Executive Order for submittal to the Legislature for approval. This set aside once approved, would allow HCDCH to execute a lease with the developer.

Mr. Ueki added that the project involves two areas of the agency - - Development Branch and Finance Branch. Stan Fujimoto, Development Section Project Coordinator explained the status of the land issues as having an application with the Department of Land and Natural Resources (DLNR) for the set aside, subdivision approval and registering it with the Land Court. As HCDCH has only one-half of the site, DLNR will be issuing a set aside to the other half to the Department of Accounting and General Services (DAGS). However, there is an easement on the area that will be set aside to DAGS that will need to be approved for access and utilities. This will need to be approved by the Board of DLNR due to the encumbrance of State property. After all transactions have been completed, HCDCH can then execute a lease agreement with the developer for the land.

APPROVAL
TO
EXTEND
RESOLU-
TION
NO. 082
WHICH
PROVIDES
FOR
OFFICIAL
INTENT
WITH
RESPECT
TO THE
ISSUANCE
OF
HULA
MAE
MULTI-
FAMILY
TAX-
EXEMPT
REVENUE
BONDS
FOR THE
SENIOR
RESIDENCE
AT
IWILEI
PROJECT,
OAHU

Director King asked if the extension would affect any other projects that may be waiting to be funded. Mr. Ueki answered that it would not as the extension would give the developer the opportunity to recognize eligible costs in its budget. The decision to use Dwelling Unit Revolving Funds (DURF) or Rental Housing Trust Funds by the developer will probably be determined after it is known whether or not DURF funds can be used for permanent financing.

There being no further discussion, the motion was unanimously carried.

Staff's recommendation was presented as follows:

That the HCDCH Board of Directors recognize the Hale Hauoli Resident Council as a duly elected resident association pursuant to volume 24 CFR part 964.

Designee Oliva moved, seconded by Director King

That staff's recommendation be approved.

Acting Executive Director Pamela Dodson explained that the 40-unit federal housing project is located in Honokaa, Hawaii. The Resident Council has fulfilled all requirements of the regulations identified in volume 24 Code of Federal Regulations, Part 964.

The motion was unanimously carried.

RECOGNITION
OF
HALE
HAUOLI
RESIDENT
COUNCIL

Staff's recommendation was presented as follows:

That the Board of Directors of the Housing and Community Development Corporation of Hawaii approve the Security of Confidential Information Policy and delegate authority to the Executive Director to carry out the provisions of the policy.

Director King moved, seconded by Designee Oliva

That staff's recommendation be approved.

Compliance Officer Patti Miyamoto explained that the U.S. Department of Housing and Urban Development (HUD) will be providing all public housing agencies access to its Enterprise Income Verification (EIV) system which is a single source of income-related data for use in verifying the income reported by tenants and various assisted housing projects. The system will give the agency access to tenant-supplied income data maintained in the Public Housing Information Center (PIC), wage information from the State Wage Information Collection Agencies (SWICA), social security and supplemental security income from the Social Security Administration and user profile information from the PIC data base.

As staff will be able to access this confidential information, HUD requires that safeguards be in place to protect the confidential information of the tenants. The policy will encompass all confidential material and not be limited to data retrieved from HUD's information system.

Noting that the policy will be agency wide and not limited to certain areas of the agency, Director King commented that the proposed policy would be difficult to secure individual offices. Designee Oliva agreed commenting that the

APPROVAL
OF THE
SECURITY
OF CONFIDENTIAL
INFORMATION
POLICY
FOR THE
HOUSING
AND
COMMUNITY
DEVELOPMENT
CORPORATION OF
HAWAII

implementation of the policy would be very difficult. Director Smith asked if HUD had provided a model policy for staff to follow to which Ms. Miyamoto answered that HUD provided guidance to staff in its preparation of the policy.

Director Smith asked when the agency would be able to gain access to the EIV system.

Michael Flores of HUD responded that HUD is awaiting clarification of whether or not the agreement between HUD and the U.S. Department of Labor regarding the information to be shared with the public housing agencies has to reflect the name of the current Assistant Secretary. Once the determination is made, then the states would be part of this information sharing.

Director Smith further asked if there were any implementation guidelines available from HUD for staff to use. Mr. Flores answered that the information that was provided to staff was a result of various training sessions sponsored by HUD that staff had attended. As the implementation process begins, new guidelines will be provided by HUD. Part of the agreement to release this information, is to be assured that there is security in place to protect the confidentiality of the information that is accessible by the state agency. As an example, social security numbers may not be transmitted by e-mail due to the possibility of identity theft should this information be made available to the wrong parties. Mr. Flores further stated that it is high priority and is part of the rental housing integrity improvement project where this may prevent future underreported income by individuals which may result in a significant loss for the government.

Designee Oliva then asked once the policy is implemented, who would be the person to oversee the policy itself. Ms. Miyamoto answered that it would be herself as the Compliance Officer.

Designee Oliva further asked should the implementation of the policy not be successful, would this result in any type of penalty for the failure.

The Chair, noting that there are serious concerns about the implementation of the policy by the Board, suggested that the Board adopt the policy on its own merits. He further suggested that staff later share with the Board a detailed plan of the implementation in the Executive Director's Report or as an informational item as prevention of potential breach of security is an extremely serious issue.

Director Larson agreed and commented that staff may want to form a committee that would be actively discussing the implementation on an ongoing basis.

Director King asked if there was any deadline set by HUD or the agency to implement the policy.

Mr. Flores stated that HUD recognizes that there may be factors that will delay the implementation but HUD would like it to be implemented as quickly as possible.

The Chair asked if this requirement was part of the Memorandum of Agreement to which Mr. Flores stated that it was not.

Ms. Miyamoto also informed the Board that HUD will check to see if the item is in place as part of the Rental Housing Integrity Monitoring System audit.

There being no further discussion, the motion was unanimously carried.

The Chair stated that he had received a letter from Senator Donna Mercado Kim addressed to himself with copies to the Board members, which raised a number of concerns regarding the Board's knowledge and involvement in the activities of HCDCH. Upon review of the letter, the Chair stated that he had divided the letter into two parts with one part to be analyzed and answered by staff with respect to the facts. The second part would be answered directly by the Board as to why certain actions were taken. The two parts will then be merged and a written response to Senator Kim will be sent.

FOR
INFORMA-
TION -
DISCUS-
SION OF
LETTER
FROM
SENATOR
DONNA
MERCADO
KIM

In order to respond on the Board's behalf, the Chair appointed a subcommittee comprised of himself together with Directors Charles King and Francis Jung. As a working group, the subcommittee will complete a draft response from the Board which will include staff's response by the next Board meeting for the Board's review in open session.

The Chair then asked Acting Executive Director Pamela Dodson to begin staff's discussion of the letter. Ms. Dodson stated that Chief Planner Janice Takahashi and Planner Mavis Masaki in a joint effort provided the relevant factual information on the issues that were raised by Senator Kim.

Chief Planner Janice Takahashi then addressed the Board by stating that in place of addressing each issue on a point-by-point basis, the staff addressed the issues in areas that were of common nature. Ms. Takahashi then presented staff's discussion as summarized below:

- Responsibilities of the Executive Director

Staff has pointed out the duties of the Executive Director as defined in the By-Laws of HCDCH; and

Authority to approve all contracts and change orders as delegated by the Board on December 18, 2003
- Communications with Community Groups and the Legislature
Staff's records reflect that the Executive Director has participated in more than 100 meetings with community groups, legislators and tenants in a 15-month period
- Hauiki Homes and HCR 214

A timeline was provided by staff to show the events that took place with regard to Hauiki Homes and the report to the Legislature in response to HCR 214.
- Kalihi Valley Homes

A timeline of events was presented as well as the reporting by the Executive Director to the Board and informational briefing to the State Senate about the problems at Kalihi Valley Homes (KVH). She noted that past minutes may not reflect discussions of KVH due to the litigation that was pending at that time.
- Accountability to HUD

HCDCH Board receives monthly progress reports by the Executive Director about compliance with the MOA requirements

- Legislative Informational Briefings

The Executive Director reported to the Board about the Senate Informational Briefings. Ms. Takahashi also stated that two resident-employees of HCDCH testified in support of the Executive Director at a Senate Informational Briefing as individuals and not as employees of HCDCH.

The Chair then asked Michael Flores of HUD if he had any general comments as far as HUD's working relationship with HCDCH and if possible, also comment on the Memorandum of Agreement (MOA) and the agency's progress in meeting it successfully.

Mr. Flores stated that at the time the MOA was executed, then Assistant Secretary Michael Liu made it very clear that the MOA reflected a cooperative working relationship between HUD and HCDCH. The objective of the MOA was to have HCDCH move forward and have the "troubled" status removed which resulted from low scores that HCDCH had received in previous evaluations of the Public Housing Assessment System (PHAS). The MOA specifically listed items that HCDCH had to address.

Mr. Flores also referred back to a previous comment by Director Travis Thompson who had noted that the MOA could be divided into a few areas. In the Board's discussion of the MOA, some of the areas were:

- Filling of the vacant units;
- Units be decent, safe and sanitary;
- Tenants need be deemed eligible as well as pay the correct rent on a timely basis; and
- Sound financial management of HCDCH.

HCDCH has met with HUD monthly beginning February 2005 to ensure that the agency is progressing and is successful in meeting the requirements of the MOA.

Physical assessments are currently being done. In the past, HCDCH scored low in two areas - the physical assessment subsystem and management assessment subsystem. Some of the physical assessments that have been done thus far, have indicated significant improvement in the scores by the agency. However some scores have shown that the project would score below the 60-point threshold. Hopefully overall HCDCH will have a passing score of 60 points or more.

The management assessment subsystem involves the vacant unit turnaround time and the processing of work orders. HUD is aware that staff is making an effort to reduce this turnaround time despite the fact that some units have been vacant for a long period of time. HCDCH can demonstrate that it has this situation under control by having short turn-around times for the more recent vacant units.

HUD is also aware that staff has been diligently working on the work orders to ensure that actions are taken on a timely basis. The assessment of the work orders will be done at the end of June.

Mr. Flores ended his remarks by stating that overall HUD is pleased with the progress that HCDCH has made. It also acknowledges the time spent by staff in addressing the MOA and is pleased that some of the critical positions have been filled. Other key positions, however, need to be filled, such as the Contract and Procurement Officer. He also expressed HUD's appreciation for the Board's support and attention to this matter.

The Chair asked if Mr. Flores had any comments on the financial submission to which Mr. Flores stated that previously HCDCH had received zero due to late presumptive failure and issues therefore could not be resolved. However, currently the financial statements have been submitted timely and issues have been resolved on a timely basis. HUD is satisfied in that area for HCDCH to be considered a standard performer.

The Chair commented that in a previous meeting, Executive Director Stephanie Aveiro had informed the Board that some projects will not make the passing grade.

Director Smith thanked Mr. Flores for his personal assistance with HCDCH in working with staff, administration and the Board to ensure that the high priority items are addressed as well as the update that he provided to the Board.

Senator Donna Mercado Kim then addressed the Board regarding her letter which raises a general concern by herself, her colleagues and the general public about the performance of the staff and the Executive Director of HCDCH. Although she appreciates the Board responding to her letter, she stated that the only thing that the general public has to understand what was discussed at the Board's meetings are the minutes of the Board meetings. Sen. Kim further stated that she has read all of the minutes and if some of the information are not included in the minutes, which are public records, concerns are raised on the accountability on the part of staff, of the Executive Director by the Board. She also commented that the Board may want to remind staff that the minutes are to be made available to the public.

Sen. Kim continued by stating that her letter gives examples of communication problems it has had with staff. She noted that staff's report to HCR 214 was not responsive to the resolution and was brought to her attention by the general public. There also has been no update on the asset management study that the Executive Director had reported was currently being done. In staff's response to the resolution, it concludes "that generally HCDCH supports home ownership which generally strengthens families and communities, the HCDCH will continue to work with Kokua Legal Services to obtain requested information and will make its decision in the context of the findings of its asset management study." However, the decision on the Hauiki Homes had already taken place earlier on the agenda and it is unknown whether or not the asset management study has been completed. This generates much confusion as the information that is provided to the Legislature and the action taken by the Board appears to be conflicting in nature.

Sen. Kim also noted that Kalihi Valley Homes renovation work was delayed eight months to almost one year, with increasing costs, and with housing a priority for the administration, with the minutes silent on this subject, it is a concern that the Board may not be aware of staff's actions. Although staff states that the Board is aware of it, there is no mention of this in the minutes indicating that this is the only source of information the public knows what is discussed at the meetings. The letter to the Board, was one written in frustration of staff's actions and to bring the matter to the attention of the Board. It was not intended to argue each point, but more to make the Board aware of the answers or non-answers that are given to the Legislature by the Executive Director. If the Board is aware of the situation, it is not reflected in the minutes which is the only source of information that she and the public know what is being discussed by the Board.

The Chair thanked Sen. Kim for taking the time to address the Board and assured her that her comments are well taken and will be mindful of them in the future. He added that in a previous conversation with Sen. Kim, that the matter of setting the agenda was discussed and that he will be actively participating in setting of the agenda. This has begun from the current agenda which includes discussion of the letter as well as the issue on the Waiahole Valley Agricultural Lots as Informational items rather than as Action items. It was intended to be transparent by informing the public that the Board is working on the items but not ready to make any decision.

Sen. Kim expressed her appreciation of the Chair and commented that it was extremely difficult to obtain the agenda as well as the minutes from staff. Although staff is aware of items that are of interest by her office, but is not responsive to her requests. As an example Sen. Kim pointed out receiving the meeting agenda from Kokua Legal Service rather than the HCDCH staff.

The Chair clarified that the meeting agenda is posted with the Lt. Governor's Office when it is finalized. Deputy Attorney General Sandra Ching stated that the minutes should be in written draft form within 30 days after the meeting.

Sen. Kim stated that her office checked with the Office of Information Practice which informed her that once the minutes are available, whether it is approved or not, they must be made available to the public. If after 30 days the minutes are not available, the notes must be made available.

Sen. Kim further stated that when she had called staff for the minutes, she was told that they were not approved yet. Ms. Ching then commented that staff wanted to receive clarification that the minutes need not be approved before they were released to the general public. After the clarification was received, it was her understanding that staff had transmitted the minutes to Sen. Kim's office.

Sen. Kim also requested that staff keep her updated regarding the asset management study as it involves the district that she represents.

In response to Sen. Kim's query regarding the completion of the asset management study, the Chair stated that it is a multi-phase project. The Chair added that he and Director Thompson have met with the consultant earlier.

The Chair suggested that a work plan could be outlined and then it can be determined whether or not dates can be applied and be open for further discussion specifically for Hauiki Homes. The item of Hauiki Homes was placed on the agenda as it was believed that a decision to approve or disapprove should be made in order to address the residents who have made the request to purchase their units. This was done to alleviate any uncertainty for those residents for an undetermined timeline.

As Director Smith had mentioned earlier, the Chair also stated his support of homeownership which the agency is involved in a variety of ways. However it must be clarified and determined by the Board as to monetizing the assets of the State. There are varying opinions as to the future of the current physical assets with some members of the Board who prefer to retain rental units as rental units and others who believe that monetizing certain assets to obtain the resources to create more inventory is a better approach.

Sen. Kim commented that whenever policies are adopted by the Board, it should be consistent with the responses to the community. She further stated that she was thankful that there was action taken regarding Hauiki Homes as the residents have been held in abeyance for a long time.

The Chair again thanked Sen. Kim for taking the time to address the Board.

Acting Development Section Chief Tom Otake noted the following activities within the Development Section:

- Request for Proposals (RFP) for development of three parcels in the Villages of Kapolei was awarded earlier on the agenda to Castle & Cooke Homes Hawaii, Inc.

FOR
INFORMA-
TION -
DEVELOP-
MENT
BRANCH
STATUS
REPORT

- Demolition of Uluwehi Apartments Project is on schedule; RFP for new emergency, transitional and affordable housing project is due on July 15, 2005.

Director Smith asked if the demolition of Uluwehi Apartments had started to which Mr. Otake stated that the contractor has secured the site to be sure that there is nobody on the premises. Demolition will begin later in the month.

- Meeting will be coordinated to have Peter Young of the Department of Land and Natural Resources (DLNR), Micah Kane of the Department of Hawaiian Home Lands, Directors Jung and Smith to discuss the possibility of DLNR not transferring development rights to any of the 300 acres of non-ceded lands of the Villages of La`i`opua located on the island of Hawaii to DHHL. This acreage may then be available for affordable housing for all residents of the state.

Director Larson asked if in the planning process, how staff plans to have community input in order to determine the type of units and community resources placed in the area before an RFP is issued.

Director Smith commented that the property was first identified by the Geographical Information System (GIS) that was presented to the Board at a previous meeting. Director Jung had expressed interest in pursuing the large parcel of land as it is located above Kona where much housing is needed and is in an already developed area.

On April 29, 2005, Director Smith stated that the Governor's Policy staff met with Director Jung, members of the Hawaii County Council and Mayor's Office to discuss very preliminary plans should this land be made available.

Director Larson asked to have the RFP process explained. Mr. Otake stated that the RFP is published in both daily newspapers, the local business newspaper, as well as the websites of the State Procurement Office and HCDCH. A listing of companies who had expressed interest are also notified that the RFP is accessible by directing them to the websites.

Director Smith then asked about the vacant lots located at Kuliuouou that have been offered for sale. Finance Branch Manager Darren Ueki explained that Kuliuouou project was divided into two parts. One part was the large property referred to as the Frank's property and the other was the adjacent 17 remaining vacant lots. The four offers were for the Frank's property in an "as is" condition. There has been interest in building up to three dwellings on the property, but nothing has yet to be developed.

Mr. Otake commented that the Frank's property is adjacent to the slippage area and has yet to be affected by the overall movement of the area. He further stated that there have been inquiries about the properties, however, once they understand the condition of the properties, no further interest is expressed.

Director Smith commented that since there have been no reasonable offers for the 17 lots as Mr. Otake stated, it may need to be further studied as to how this can result in a sale. Mr. Ueki also stated that staff is in the process of a sale for the Frank's property and will inform the Board of the sales price once the sale is consummated.

Mr. Otake stated that in the next status report, he would include the number of inquiries received of the 17 lots to give the Board a better indication as to the interest that it has since generated.

Director Larson then asked about the status of the development of the Crown Property in Waipahu. Mr. Otake stated that it is slated to have an RFP in the future and staff will begin the process as soon as it can.

Director Smith commented that an RFP is boilerplate material and should not be too difficult to issue. She encouraged staff to work quickly on this citing the current demand for affordable housing is at a critical level.

Finance Branch Manager Darren Ueki highlighted the major accomplishments that have occurred during the past month.

- Hula Mae Single Family Program - Executive Director Stephanie Aveiro and he traveled to New York to price the \$45 million bonds. A press release is currently being planned and it is believed that everyone will be pleasantly surprised at the rates that the agency was able to obtain.
- Low-Income Tax Credits - The Board deferred two projects and staff has met with the two developers since then. October 2005 is the deadline for awarding of the tax credits should the developers be able to meet the concerns of staff.
- Compliance Monitoring - Spectrum Enterprises has been contracted to do all the compliance work to ensure that the projects that have been awarded tax credits, are adhering to the rules and regulations of the program that was agreed upon.
- Kuliouou parcel (Frank's property) - A number of inquiries have been received and staff is working with one prospective purchaser. It will keep the Board informed of any developments.

FOR
INFOR-
MATION -
FINANCE
BRANCH
STATUS
REPORT

Acting Executive Director Pamela Dodson introduced newly appointed Property Management & Maintenance Branch (PMMB) Chief, Marilyn Labayog. Ms. Labayog stated that she has been accompanying a few of the area managers as the projects are inspected for the Real Estate Assessment Center (REAC) scores. She reported that with the exception of two properties, HCDCH has passed inspection thus far.

Staff is also actively working with the Department of the Attorney General on writing off most of the uncollectible tenant accounts receivables to lower the outstanding balance.

Ms. Labayog then gave a brief background of her professional career, noting that she worked as property manager for properties owned by HUD, elderly projects, HHA Wilikina Apartments, condominium associations and most recently managed a commercial shopping center.

David Chinen of the Waiahole Waikane Community Association (WWCA) asked if Ms. Labayog is in charge of maintenance, why was there no representation by HCDCH at a meeting held on June 15, 2005 regarding the flooding of Waikane Stream. Mr. Chinen continued that all parties attended except HCDCH which made the meeting unproductive.

FOR
INFOR-
MATION -
PROPERTY
MANAGE-
MENT &
MAINTENANCE
BRANCH
STATUS
REPORT

Ms. Dodson responded that Ms. Labayog is in charge of management of public housing projects and that the Development section is in charge of the Waikane Stream. Development Section Project Coordinator Chris Sadayasu stated that staff did receive a call from Honolulu Council Chair Donovan Dela Cruz' office about the meeting but by an oversight by their office, HCDCH was not included in the meeting. Mr. Sadayasu continued that Mr. Dela Cruz' office will document the discussion at the meeting and will meet with HCDCH staff to follow up.

The Chair asked Ms. Labayog the status of her support staff. Ms. Labayog answered that with the assistance of the Personnel Office, they have been aggressively filling all the vacant positions; it is hoped to have all positions filled within the next four months. The Chair further asked if support from the various levels of government, including the Board, is in place to achieve this. Ms. Labayog stated that although the process differs from the private sector, all parties have been supportive to fill the personnel needs of her branch.

Director Smith asked if Ms. Labayog will be able to provide a written report similar to the other branches to which Ms. Labayog answered that she would provide written reports beginning July 2005.

Director Larson asked Ms. Labayog how she would be able to involve the residents in the community that she oversees.

Ms. Labayog answered that she supports tenant involvement and believes that they be kept informed as to how the agency operates which may prevent any problems in the future.

Chula Clark of Waiahole Waikane Resident Association then asked how the agency manages vacant lands. Ms. Clark explained that she is aware of a four-acre parcel that is located at 48-218 Kamehameha Highway that has been the site of illegal dumping for approximately five years. It is owned by HCDCH and has been reported numerous times to HCDCH, vector control, environmental agencies with no follow-up action.

Acting Executive Director Pamela Dodson said that staff would follow up and contact Ms. Clark.

Director Larson moved, seconded by Director King

RECESS

That the meeting be recessed at 11:33 a.m.

The motion was unanimously carried; the Chair reconvened the meeting at 11:39 a.m.

The Chair stated that upon receiving Senate Concurrent Resolution No. 178 (SCR 178), it was decided that it would be placed on the agenda for discussion purposes only and that no action will be taken at the time.

Acting Executive Director Pamela Dodson introduced Micah Kane, Chair of the Department of Hawaiian Home Lands (DHHL) and Project Coordinator Chris Sadayasu.

Mr. Sadayasu explained that the 2005 State Legislature passed SCR 178 which requested the HCDCH Board of Directors to rescind its previous action of transferring Waiahole Valley Agricultural Park and Residential Lots Subdivision to DHHL. Mr. Sadayasu stated that in addition to the written facts of the project, staff had included a section of the Hawaii Revised Statutes supporting staff's position that the transfer did not pose a conflict as legislative appropriations were not utilized. Mr. Sadayasu stated that staff has also provided clarification to various statements made in SCR 178.

FOR
INFOR-
MATION -
THE
TWENTY-
THIRD
LEGIS-
LATURE
OF THE
STATE
OF
HAWAII'S
2005
SENATE
CONCUR-
RENT
RESOLU-

The Chair requested that Mr. Sadayasu provide in detail the information that he had just summarized.

Mr. Sadayasu then proceeded to explain staff's position regarding SCR 178

- Page 2, paragraph 7, line 29:

"...aggressive and drastic campaign to evict" HCDCH lessees:

The long-term leases, administered by HCDCH Real Estate Section, have issued the notices of default in the normal course of business. It has therefore not been done in conjunction with any transfer of the property to DHHL. HCDCH has assisted in the past to remedy some of the violations of the lease, however, if the violations continued, staff has gone forward to correct these violations which may include evictions.
- Page 2, paragraph 8, line 34, regarding the DHHL's intent to evict present lessees in order to place persons of Hawaiian ethnicity on Waiahole lands

DHHL has no control over any parcels in Waiahole Valley other than 18 vacant parcels that were transferred in 1998. HCDCH will remain the lessor and maintain the day-to-day administration of the current leases. Mr. Sadayasu noted, however, that HCDCH will continue to cite its lessees for lease violations and if necessary, pursue legal means for the failure to cure such violations pursuant to the terms of the lease.

The Chair asked if the process of transferring the lands to DHHL subject to the leases held by HCDCH continues to be administered by HCDCH. Mr. Sadayasu clarified that the transfer agreement provides for any vacant parcels in the open spaces be transferred to DHHL. As land becomes available, or vacant, i.e., through termination of a lease, these will then be transferred to DHHL. HCDCH would remain the fee simple owner of the lands that are currently being leased by the residents of Waiahole Valley. The Chair asked what the average length of time for the current leases. Mr. Sadayasu stated that the majority are approximately 49 years or longer as they were originally 55-year leases executed in 1998.
- Page 3, paragraph 1, line 1, regarding the diversion of water by DHHL

Mr. Sadayasu stated that the major clarification by staff is that the Waiahole water system is separate from the ditch system that is administered by the Agribusiness Development Company, a division of the Department of Agriculture. Neither DHHL nor HCDCH has any control over the water distribution, as the Waiahole Ditch System is entirely separate from the Waiahole Domestic Water System (WDWS) that services the Waiahole Valley. The WDWS is in disrepair and is in need of repair and refurbishment. Mr. Sadayasu deferred to Mr. Kane regarding the intent of DHHL on the water flow of the Waiahole Valley.
- Page 3, Paragraph 2, line 8 regarding conflicts with §37-74(d), Hawaii Revised Statutes (legislative appropriations and budget acts)

Mr. Sadayasu stated that staff believes that there were no conflicts and deferred to the Deputy Attorney General's Office for further clarification.

TION
NO. 178
REQUEST-
ING THE
RESCISSION
OF THE
AGREE-
MENT
TO
TRANSFER
THE
WAIAHOLE
VALLEY
AGRI-
CULTURAL
PARK
AND
RESI-
DENTIAL
LOTS
SUBDI-
VISION
TO THE
DEPART-
MENT
OF
HAWAIIAN
HOME
LANDS

- Page 3, Paragraph 3, line 13, conflict with the Declaration of Restrictive Covenants for Waiahole

The Declaration of Restrictive Covenants for Waiahole will be part of the transfer to DHHL who will receive the lands subject to the Declaration. Mr. Sadayasu cited the 18 parcels that were previously transferred to DHHL were also subject to the Declaration.

- Page 3, Paragraph 4, line 19 regarding necessary "restructuring of the long-term leases

Leases may not be amended unless both parties, lessor and lessee, are agreeable to the terms.

- Page 3, Paragraph 5, line 24, regarding formal notice of the transfer

Mr. Sadayasu stated that Waiahole Valley was not part of the initial negotiations with DHHL which was focused on Villages of Leialii and Villages of Kapolei. During the course of the negotiations between the Executive Director of HCDCH and Chairman of DHHL, it was agreed that DHHL had sufficient resources to repair the existing water system of Waiahole Valley. Subsequent discussions with the Department of Budget and Finance (B&F) and the Office of the Governor, led to the inclusion of Waiahole Valley in the transfer agreement. After presentation and approval by the Board of the transfer agreement, the community was notified of the action that had taken place.

Micah Kane, Chairman of the DHHL, then addressed the Board and the residents of the Waiahole Waikane Valley. Mr. Kane stated that DHHL not only recognizes its fiduciary responsibilities to its beneficiaries but it also recognizes that the Administration must succeed in serving the needs of the Waiahole community and have taken that position throughout the negotiating discussions. He further stated that with the present situation, it would be difficult for DHHL to be successful in

the Waiahole Valley. Unless DHHL is welcomed by the residents of the valley and that they understand what DHHL hopes to achieve in the valley, it will not be successful. Mr. Kane continued that it is committed to HCDCH and its Board in fulfilling the direction that it would like DHHL to go in.

The Chair then opened the discussion to the members of the community.

A member of the community asked for clarification as to what would constitute an eviction to take place.

Tom Otake, Acting Development Section Chief, stated that although the Real Estate Services Section of HCDCH manages the long-term leases, for clarification purposes, of the 67 lessees that were given letters of violations, only four lessees are still in the process of curing their leases. The remaining 64 have cured their defaults.

Marcia Kamiya, Real Estate Services Section Sales Coordinator, stated that the intent of staff is to administer leases and to ensure that all leases are in full compliance. The leases are restrictive and have conditions that must be fulfilled. If, these conditions are not fulfilled, such as delinquent lease rents, payment of annual percentage lease rents, notices are mailed to the lessees. These notices inform the lessees of their default and are given an opportunity to correct the default within 60 days. Should the lessee fail to do so within 60 days, a termination letter is then sent. If a termination letter is not provided for in the lease agreement, then the matter is referred to the Department of the Attorney General for further action. Ms. Kamiya stated that the process has been ongoing since 2001.

Alma Ringler, who is not a Waiahole lessee but an interested party, commented that although HCDCH staff said that only four farmers are in non-compliance, it appears from the news media that most of the farmers are in non-compliance.

Director Smith stated that she appreciates the fact that the item is on the agenda for discussion. She further stated that the Board of HCDCH has a fiduciary responsibility to ensure good management of those public lands that are under its jurisdiction. The strength of HCDCH was in the management of public housing stock, rental housing and vacant lands, which can present the opportunity to pursue affordable housing. This has been the main focal point of HCDCH.

Waiahole Valley was identified as an asset that while it was of extreme importance, did not fall within the mission of HCDCH. This began the exploration of ways in which management of Waiahole Valley could be more effective. As HCDCH was not considered the best entity to continue management of the valley, particularly because of the large parcels of vacant land, DHHL was considered as it has the ability and financial capability to handle that type of land management.

The Chair asked for comments from the public. Ms. Chula Clark then addressed the Board noting that as a native American, she would be able to live on reservations that require blood quantum. However, DHHL has an obligation to manage the lands for the native Hawaiians. As all agricultural lots in Waiahole Valley have a residential lot, this would then automatically exclude DHHL from taking over that lease and administering it to the present lessees without evicting them first. DHHL cannot manage agricultural lands. There have been some evictions already executed and lots have been completely fenced with signs stating "No Trespassing". Ms. Clark asked if these lots then go to DHHL.

Attorney Brad Chong representing the WWCA then addressed the Board. Mr. Chong stated that it is apparent that with the fiduciary responsibilities of DHHL, and their obligations to their beneficiaries, their leases are very restrictive. It is clear that under the 1920 Hawaiian Homes Commission Act, that DHHL cannot administer residential leases of HCDCH to those who do not meet the minimum blood quantum. Although the majority of the current lessees do not meet this requirement, there are some who may qualify but have yet to have any discussions with DHHL about a new lease. Terms, lease rent, lease conditions, have not been discussed. Mr. Chong also informed the Board that the current leases were a result of 25 years of discussion with the former agency known as Housing Finance and Development Corporation (HFDC) to execute the leases in 1998. Having multiple government agencies administering the leases will be very difficult.

Mr. Chong also commented that the 67 eviction notices that Mr. Otake had referred to was very poorly timed as it was simultaneously done when the transfer agreement was made with DHHL. Although the transfer agreement was for open and vacant lots, once the evictions are executed, the lots become vacant and then turned over to DHHL. Mr. Chong further commented that in the SCR No. 178 contain no misstatements and every fact is accurate. The evictions were based on non-compliance for building homes; however HCDCH withheld its consent to construct a residential dwelling by not approving the building plans and then alleging non-compliance. Further there is no specific timeframe in the leases that would require the lessees to build or construct a primary dwelling. HCDCH proceeded with evictions prior to receiving an opinion from the Department of the Attorney General or having discussions with WWCA. 67 evictions is a vast majority of a total of 80 - 90 leases.

Mr. Chong concluded that it was very important that the Board understand that the failure of HCDCH to involve WWCA which has not been recognized by HCDCH. All lessees have received their leases and liability insurance through the WWCA and yet HCDCH has not established any dialogue with it regarding the leases. The lessees want to maintain their lifestyle and culture of the valley.

In response to Mr. Sadayasu's comments about the goals to have all leases in compliance, Mr. Chong also cited a lot which has no lease. HCDCH sent a cease and desist order two years prior. However, HCDCH recently sent a letter to WWCA stating that it will not enforce this order due to pending transfer to DHHL.

Additionally HCDCH intends to assist the family to become compliant which makes it appear that assistance is done on a selective and unilateral basis. Ad hoc procedures have left people with a sense of being discriminated against.

WWCA does not support lessees who are non-compliant. However if lessees are being cited for non-compliance for matters that they have no control over, which hinders their performance, makes it very unfair. Mr. Chong noted that up until the meeting, WWCA is now encouraged to have an open discussion by having the item placed on the agenda.

The residents are not at the meeting to argue about SCR 178 but their objective is for HCDCH to adhere to the individual leases. And if, in the future, DHHL, Department of Agriculture, offers a better lease with specific terms, then discussions can follow but this was never done in the past.

Alma Ringler identified herself as a non-resident of the Valley but an interested party, having once worked for and with HCDCH approximately seven years earlier. At that time it did not want to work with an advisory board composed of residents and this is occurring again. Residents are not included in the meetings. Ms. Ringler also stated that the residents are concerned about their future generations and where they will be able to reside.

David Chinen, President of WWCA then addressed the Board. December 2004 the HCDCH Board made its decision to transfer certain parcels of Waiahole Valley. The Board of DHHL then made its decision. However, no opportunity was given to the residents of Waiahole Valley who would be directly impacted by the decision. Mr. Chinen also stated that if HCDCH had included WWCA in its discussions earlier, SCR 178 would not have been necessary. However the Legislature agreed with the residents and expressed this by passing the concurrent resolution unanimously in both houses of the Legislature. Due to the manner in which the transfer was executed, WWCA and the Legislature is requesting that the Board rescind its decision which is why many believed that the item should have been an Action item for the Board and not an Informational item.

Senator Clayton Hee then addressed the Board as the representative for the area that is being discussed. Sen. Hee stated his observations that if HCDCH believes that it is not the best agency to manage the valley as articulated by Director Smith, then HCDCH should ask the policymakers for assistance. There may be a need to amend the existing statutes, a creation of another department but it is a question of policy and management. Sen. Hee also remarked that in 1973 he was a University of Hawaii student who had fought for the valley with thousands of other concerned residents.

Sen. Hee added that by transferring the jurisdiction of the residential lots when the lots become available, from HCDCH to DHHL, would change the culture of the valley which is what the purpose of the original struggle was all about in 1973. This is what the people did not want. He cited an example of a lessee who is a papaya farmer in the Valley whose mother passed away and was the lessee of a residential lot. The son and his family did not want to continue the business and was therefore planning to transfer the lot back to HCDCH. This reversion would first limit the occupant of that lot to a native Hawaiian under the new policy that HCDCH adopted. This in itself is not what the lessees are concerned about as the intent of the original struggle of the valley was that the valley belonged to the people that included Hawaiians.

Sen. Hee referred to Mr. Kane's statement of not being wanted in the valley. Mr. Kane recognizes that DHHL is not welcome in the valley. If HCDCH made a conscious decision to transfer the valley to DHHL, knowing that the character of the valley would change to native Hawaiians, then HCDCH has crossed over the jurisdiction of both State and Federal laws. This would then result in numerous lawsuits because of a decision that if Director Smith is accurate, was because it was a result due to the fact that it was not what HCDCH does best. Sen. Hee further stated that HCDCH should request the lawmakers or the Legislature, to assist HCDCH to resolve the dilemma. What has now happened is that lawmakers have resolved the dilemma by passing SCR 178 unanimously by both the House of Representatives and the State Senate. It states that the Board should rescind its decision, as this is not what the Legislature would want HCDCH to do and continue with its process. HCDCH should rescind its decision and begin the process over. If HCDCH does not know what direction to take, it should then ask the Legislature for guidance. Sen. Hee further stated that he agreed with Mr. Chinen, that the Board should rescind its actions and begin open discussions that include the residents and their input.

The Chair thanked everybody for their comments which the Board will take under serious consideration. The Board's intent was to receive additional information regarding the transfer. He encouraged anyone else who wanted to comment. As a personal comment, the Chair stated that the comments received gave him additional perspectives for the issue before the Board.

The Chair further stated that the Board did not want to make a decision at the time but acknowledges that a response to the resolution will be made in the future.

Mr. Chinen stated that he wanted to also inform the Board of the restrictive covenants of the Waiahole Valley, before the leases were issued, there were three priorities: Priority 1 - Existing Tenants; Priority 2 - Displaced Tenants in the makai side of Waiahole-Waikane Valley who had an opportunity for the vacant lots; and Priority 3 was the general public. The State never had to use Priority 3. Therefore, if there are 10-15 vacant lots in the Valley, what is supposed to occur is, which is what was discussed in the 1980's, as to how it would be enforced, was that there would be a public lottery. A public lottery was to be held as public funding of \$6 million was used to purchase the Waiahole Valley. Therefore after priority 2 was implemented and there were vacant lots remaining, whether residential or agricultural, the housing agency was to conduct a lottery in all fairness to the general public. Due to the current affordable housing problem, these vacant lots should be made to the general public and not to a State agency.

The Chair commented that the recent Legislature passed a law which separates the housing agency into two parts - - public housing and housing finance/development effective July 1, 2006. As Director Smith commented that the bill has not yet been signed by the Governor and is still under deliberation, the Chair said that the agency will monitor whether or not this law will be enacted or not. If signed by the Governor, the agency will be undergoing a reorganization process. This issue will then be discussed as to which agency would be best to work with the residents or whether another state agency would be in a better position.

Bob Nakata then addressed the Board. Mr. Nakata stated that he was one of the original organizers for the residents 30 years ago. Among other things, goals were set in place by the original steering committee one of which was to preserve the integrity of the community; to keep the community as a whole community. Because of this, a very deliberate decision made during a time when there was much activism occurring in the mid-1970's, near the beginning of Native Hawaiian movement, as there were other ethnicities in the Valley that the struggle was not to be a native Hawaiian struggle but a community struggle of all ethnicities.

This is where the emotions are very strong which is why DHHL may not be the correct agency to control the Valley because of its mission to take care of only the native Hawaiian population. Although the makeup of the valley may not change for generations, it will still be changed due to DHHL as the agency in charge.

Ms. Ringler asked for clarification that if the mission of DHHL is to assist the native Hawaiians, then how was DHHL able to recently issue a large, 24-year lease of \$6 million to non-Hawaiians. Mr. Kane answered that under the Hawaiian Home Lands Act, a section that allows the agency to lease its land to generate revenue for its beneficiaries was used for that transaction. The lease rent would generate income to develop more properties for the benefit of the native Hawaiians.

Todd Eddins, Attorney for WWCA, then addressed the Board stating that the initial problem began when the Board did not realize the ramifications of its actions. To the Board's credit, it is now aware of it and will consider the concerns of the WWCA. As mentioned by Sen. Hee, WWCA will pursue the issue to protect the community, if the Board's action is not rescinded. He further stated that the current Board has shown its openness to the WWCA by allowing the people to voice their concerns in addition to allowing it to purchase its leasehold interest. This action demonstrates a good collaborative effort on everybody's part. This showed the beginning of a fruitful dialogue. Mr. Eddins further stated that the WWCA is an entity that has an executive committee meeting on a weekly basis to discuss the issues of the valley. The actions by HCDCH and DHHL are a major concern of WWCA and all the residents of the valley. Hopefully the Board will listen to the people of the valley and of Hawaii, through their elected officials, and rescind its actions.

Richard Garcia, a tenant and farmer of Waiahole Valley stated that he personally would like to thank the Board for opening its meeting to allow the residents to voice their concerns. He added that out of the 67 lessees who received the eviction notices, 63 of those were resolved. This is a credit to the staff of HCDCH as he was one of the 67 who received an eviction notice. The staff pointed out his violations and what should be corrected. He further stated that it is to the credit of the staff of HCDCH, that no evictions have actually taken place out of the 67.

Mr. Garcia also acknowledged that although there is an adversarial relationship with HCDCH, the fact is that it has a fiduciary responsibility to take care of the tenants in the valley. This has not been the case as there has been no communication had taken place as Mr. Chinen had mentioned prior to the transfer of the land to DHHL. As a result of what happened at the Legislature and with the comments made by Sen. Hee, he does not believe that this will occur in the future.

The WWCA is now recognized as the official voice of the valley and that they should be contacted whenever the residents will be affected. Any communication should be done through the WWCA. Mr. Garcia concluded by thanking the Board and the staff for taking a constructive approach to the problem by having it on the agenda.

Mr. Chinen, on behalf of the WWCA, thanked Darren Ueki, Marlene Lemke and Marcia Kamiya, who have provided support and assistance throughout the process of the leasehold purchase.

The Chair thanked everyone for their patience and participation, stating that the agency will be in regular contact with WWCA.

Director Smith moved, seconded by Designee Oliva

EXECUTIVE
SESSION

That the Directors meet in Executive Session at 12:40 p.m.

The motion was unanimously carried.

* * * * *

(Director Smith left the meeting at this time - 1:15 p.m.)

The Chair reconvened the meeting at 1:15 p.m. noting that the discussion on the Waiahole Valley was a very good one for all parties concerned.

Kathryn Lelehualanikane asked that she address the Board at this time as she had missed the bus that had transported all the residents of the Waiahole Valley earlier.

FOR
INFOR-
MATION -
THE
TWENTY-
THIRD
LEGIS-
LATURE
OF THE
STATE
OF
HAWAII'S
2005
SENATE
CONCUR-
RENT
RESOLU-
TION
NO. 178
REQUEST-
ING THE
RESCISSION
OF THE
AGREE-
MENT
TO
TRANSFER
THE
WAIAHOLE
VALLEY
AGRI-
CULTURAL
PARK
AND
RESI-
DENTIAL
LOTS
SUBDI-
VISION
TO THE
DEPART-
MENT
OF
HAWAIIAN
HOME
LANDS

Ms. Lelehualanikane stated that her husband has been a resident of the Valley for 55 years. She is half-Hawaiian and pays a monthly rent of \$70.00. She further stated that she was grateful that the State was willing to extend the lease and allow the purchase of the property. Due to her religion, she does not participate in political activities, however, for her family members, the purchase of the property is being considered. Her husband is 62 and recently had surgery which is why he was unable to attend the meeting. The children are encouraging them to obtain a loan and purchase the property. However, there is much uncertainty of the future if they do not purchase the leasehold property.

Deputy Attorney General Bryan Yee suggested to Ms. Lelehulanikane that members of the Real Estate Services Section could assist and answer her questions. Staff would be able to clarify how the proposal would work as the land is not being offered in fee simple. A property interest in the land is being offered in order for the residents to obtain a loan as the residents can then use that interest as collateral for the lending institution. Further clarification by staff could be arranged. Mr. Yee also stated that if the residents opt not to purchase the leasehold interest, it is believed that the residents would be entitled to remain on the property for the duration of the lease.

Acting Executive Director Pamela Dodson explained to Ms. Lelehulanikane that the agenda item for the meeting concerned the transfer agreement between HCDCH and DHHL and not individual leases.

The Chair also explained to Ms. Lelehulanikane that in December the Board had decided to transfer the vacant lands to DHHL. Currently, the residents and the Legislature are requesting that the Board reconsider its decision due to the diversity of the community. He then thanked Ms. Lelehulanikane for taking the time to address the Board.

Acting Executive Director Pamela Dodson introduced Stan Young, acting Hearings Office while Lili Funakoshi is on family leave.

Ms. Dodson then reported on the status of the Memorandum of Agreement (MOA) noting that a letter dated June 16, 2005 was sent to Michael Flores of HUD informing them of staff's concerns with regard to the MOA as well as the closing out of the Corrective Action Order (CAO).

Chief Compliance Officer Patti Miyamoto also reported that the letter was to confirm discussions that were held with HUD on June 7, 2005. The Capital Fund issues have been resolved however HUD still has concerns about non-procurement issues. HUD would draft a Memorandum of Understanding (MUD) regarding the non-procurement issues.

HUD has indicated that the MOA may be extended for an additional year as standard procedure is to have a troubled agency go through an MOA for one full fiscal year. The MOA was effective October 2004 making it only a partial fiscal year. HUD has indicated that it may extend the MOA to June 30, 2006.

Designee Oliva asked if staff is confident that it will meet the September 30, 2005 deadline. Ms. Miyamoto answered that a vast majority of the MOA will be completed by September 30, 2005. However, issue regarding the computer system will not be known until September. Additionally the consultant that was selected for technical assistance has had problems obtaining a tax clearance from the Department of Taxation.

The Chair suggested that staff attempt to have HUD close out the MOA for those items that have been completed and have it replaced with a new document.

Ms. Miyamoto further stated that staff has related to HUD, about the lack of timely responses from HUD regarding the MOA. Staff could address HUD's concerns in a more efficient manner if they had the responses.

Ms. Dodson also informed the Board of the recent Real Estate Assessment Center scores which overall has been very encouraging and feel confident that it will pass.

Ms. Miyamoto added that the computer data was manually checked and recognize that staff has not yet met the requirements in this area, noting that there is still much work to be done.

Director King stated that a meeting was held with himself, Director Thompson, Executive Assistant Pamela Dodson, Compliance Officer Patti Miyamoto and Michael Liu, former Assistant Secretary of the Public and Indian Housing for HUD and currently with Dutko Worldwide. Philip Musser of Dutko Worldwide also attended the meeting to discuss what services they could provide to the agency.

Director Betty Lou Larson pointed out that in Attachment D of the OED Report it showed that the Rent Supplement Program is not being used to its full extent and perhaps it should be looked at more closely as this can prevent those who are almost homeless.

Patti Miyamoto clarified that although there appears to have many outstanding vouchers not used, the amount of funding has reached its maximum allocation and additional vouchers cannot be issued.

Ms. Dodson also reported on the proposed transfer of the program to the City & County of Honolulu (C&C). A transition team that was formed by C&C has indicated that January 2007 may be the earliest that they could receive the program.

OFFICE
OF
EXECUTIVE
DIRECTOR
REPORT

MEMO-
RANDUM
OF
AGREE-
MENT

There being no further business, Director King moved, seconded by Designee Oliva
That the meeting be adjourned at 1:45 p.m.

ADJOURN-
MENT

FRANCIS L. JUNG
Secretary

Approved:

